

CHAPTER 2
DEPARTMENT OF ELDER AFFAIRS

321—2.1(231) Mission statement. The mission of the department of elder affairs is to provide advocacy, information, educational and prevention services to elders so they may find Iowa a healthy, safe, productive and enjoyable place to live and work.

321—2.2(231) Definitions. Words and phrases as used in this chapter are as defined in 321 IAC 1 unless the context indicates otherwise.

321—2.3(231) Department established.

2.3(1) Authority. The Iowa department of elder affairs is established by Iowa Code chapter 231 and is the sole state agency responsible for administration of the federal Act.

2.3(2) Contact information. General correspondence, inquiries, requests for information or assistance, complaints, or petitions may be sent to or obtained from the following sources:

a. By mail addressed to: Director, Iowa Department of Elder Affairs, Jessie Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319;

b. By telephone at (515)725-3333; or

c. From the Web site at <http://www.ia.state.us/elderaffairs>.

2.3(3) Business hours. Business hours for the department are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays established by the state executive council.

321—2.4(231) Director. The director's duties and responsibilities are established in Iowa Code chapter 231.

321—2.5(231) Organizational units of the department. The department's activities are performed by employees within the office of the director, two divisions and the office of elder rights. Grants will be managed by the appropriate division, office of the director or office of elder rights, dependent upon the source and intended use of funds.

2.5(1) The office of the director is comprised of the director, administrative support, public information officer, division administrators and legislative liaison. This office is responsible for the overall planning, policy, management and operations of the department.

2.5(2) The administrative division is responsible for the following:

a. Coordinating, reviewing and processing the multiyear area plans from the area agencies on aging;

b. Developing and processing the State Plan Funding Application to the federal government;

c. Monitoring, assessing, evaluating and auditing the 13 area agencies on aging for general area plan performance;

d. Maintaining accountability for all state, federal and local funds for which the department is responsible;

e. Managing a variety of department administrative responsibilities (including but not limited to budget preparation, personnel activities, ordering supplies and purchasing equipment);

f. Developing and maintaining computerized information systems which compile and analyze data to assess the quality and priorities of the department's programs; and

g. Processing information for presentation in reports, pamphlets, brochures, videotapes and the news media.

2.5(3) The elder programs and advocacy division is responsible for the following:

- a. Developing program initiatives related to the department's mission;
- b. Reviewing and commenting upon laws, regulations, and rules that impact programs and services for elders;
- c. Program development related to:
 - (1) The continua of long-term care options;
 - (2) Case management program for the frail elderly;
 - (3) Nutrition and health promotion;
 - (4) Information and assistance;
 - (5) Adult day and respite services;
 - (6) Housing, including elder group homes and assisted living;
 - (7) Access to public benefits;
 - (8) Mature worker programs, including pension counseling; and
 - (9) Caregiver programs;
- d. Providing customer services related to elders' rights issues;
- e. Monitoring and assessing services related to elder programs and advocacy issues;
- f. Outreach to elders in greatest need (minority, rural, low-income and persons with disabilities);
- g. Coordination and advocacy efforts which involve partnerships with a variety of public and private agencies; and
- h. Providing educational opportunities such as conferences, workshops and other means of informing elders and their caregivers.

2.5(4) *Office of elder rights.* The office of elder rights includes:

- a. The office of the long-term care ombudsman which is responsible for all applicable duties contained within the federal Act and the duties as outlined in 321 IAC 8;
- b. Legal assistance development related to the department's mission and duties as outlined in 321 IAC 7;
- c. Elder abuse policy development, prevention, education and intervention and duties as outlined in 321 IAC 15; and
- d. Providing customer services related to elders' rights issues.

321—2.6(231) Staffing.

2.6(1) Procedure for employment with the state of Iowa is given in 11 IAC 54, Recruitment, Application and Examination. Applicants for employment who are not chosen for a position shall be notified in writing.

2.6(2) The department may, as provided in 11 IAC 51.4(8A), obtain specialized services of individuals or organizations on a contract basis.

2.6(3) Standards of conduct. Each employee of the department is personally responsible for maintaining a high standard of conduct, consistent with 11 IAC 66, Conduct of Classified Employees, and with standards issued by the director.

321—2.7(231) Discrimination. The department shall comply with 11 IAC 68, Equal Employment Opportunity and Affirmative Action, and associated provisions of federal and state law in all personnel actions. Any person who believes that the person has been discriminated against shall follow the appropriate procedures given in:

- 1. 11 IAC 61, Grievances and Appeals;
- 2. Any applicable collective bargaining agreement;
- 3. 11 IAC 68, Equal Employment Opportunity and Affirmative Action;
- 4. Any applicable provisions of federal statute, Iowa law or rule.

321—2.8(231) Affirmative action plans. The director shall comply with 11 IAC 68 and with the requirements of Section 900.607 of Title 5 of the Code of Federal Regulations (1981).

321—2.9(231) Department complaint and appeal procedures.

2.9(1) Aggrieved party identified. An aggrieved party is any agency, organization, or individual that alleges that the party's rights have been denied or that services provided were not in compliance with regulations or were substandard because of an action of the department, the commission of elder affairs, an AAA or an AAA subcontractor.

2.9(2) Complaints or appeals to the department from the AAA level.

a. Except in cases where an AAA is acting in its capacity as a Medicaid provider, complaints at the AAA level by any aggrieved party shall be heard first by the AAA using the AAA's procedures.

b. Local complaint procedures of an AAA or an AAA subcontractor shall be exhausted before the department of elder affairs is contacted.

2.9(3) Requests for an informal review or a contested case hearing.

a. *Informal review.* An aggrieved party or a party appealing an AAA-level decision has 30 calendar days from receipt of written notice of action from the AAA or the department to request an informal review by the department or a contested case hearing.

(1) Any person who desires to pursue an informal settlement of any complaint may request a meeting with appropriate department staff. The request shall be in writing and shall be delivered to the Director, Department of Elder Affairs, Jessie M. Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319.

(2) The request must contain the subject matter(s) of the complaint and an explanation of all steps taken to resolve the matter prior to requesting an informal review.

(3) Upon receipt of the request for informal review, all formal contested case proceedings, if begun, are stayed.

(4) The department may, as a result of the informal review, negotiate a settlement of the complaint or, if appropriate, may send the matter back to the AAA for reconsideration.

(5) Parties desiring informal settlement shall set forth in writing the various points of a proposed settlement, which may include a stipulated statement of facts.

(6) When signed by the parties to a controversy, a proposed settlement shall represent final disposition of the matter in place of contested case proceedings, which shall be terminated.

(7) If the parties are unable to reach agreement during the informal review, the matter may, if requested, be handled by the department as a request for a contested case proceeding under Iowa Code chapter 17A and 321 IAC 13.

(8) A proposed settlement which is not accepted or signed by the parties shall not be admitted as evidence in the record of a contested case proceeding.

b. *Contested case proceeding.*

(1) Within 15 calendar days of receipt of a request for a contested case hearing, the department shall initiate a contested case proceeding under 321 IAC 13.

(2) If the controversy is a matter that is subject to a contested case proceeding under Iowa Code chapter 17A, parties may request a contested case proceeding at the conclusion of an unresolved informal review pursuant to 321 IAC 13.

2.9(4) Appeal by applicants denied designation as a planning and service area. Any applicant for designation as a planning and service area whose application is denied and who has been provided a hearing by the department of elder affairs and has received a written appeal decision by the commission may appeal the denial to the assistant secretary of the Administration on Aging in writing within 30 calendar days of receipt of the commission's decision.

2.9(5) *Judicial review.* A party that seeks judicial review shall first exhaust all administrative remedies as follows:

a. A party shall appeal the decision of the administrative law judge as provided in subrule 2.9(4) and receive a decision from the commission as provided in subrule 2.9(4).

b. Petition for judicial review of the commission's decision shall be filed within 30 calendar days after the decision is issued.

321—2.10(231) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

These rules are intended to implement Iowa Code chapter 231.

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